

Conservation Measure 08/06 establishing a List Of Vessels Presumed To Have Carried Out Illegal, Unreported And Unregulated Fishing Activities in the South-East Atlantic Fisheries Organisation (SEAFO) Convention Area

The Parties to the SEAFO Convention :

Recalling that the FAO Council adopted on 23 June 2001 an International Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated fishing (IPOA-IUU). This plan stipulates that the identification of the vessels carrying out illegal, unreported and unregulated (IUU) fishing activities should follow agreed procedures and be applied in an equitable, transparent and non-discriminatory way.

Concerned that IUU fishing activities in the Convention area undermine the effectiveness of the conservation measures adopted by the SEAFO.

Further concerned that there is a possibility that vessel owners engaged in such fishing activities may have re-flagged their vessels to avoid compliance with SEAFO measures.

Determined to address the challenge of an increase in IUU fishing activities by way of counter-measures to be applied in respect to vessels, without prejudice to further measures adopted in respect of flag States under the relevant SEAFO instruments.

Considering the action undertaken in other regional fisheries management organizations to address this issue;

Conscious of the need to address, as a matter of priority, the issue of vessels conducting IUU fishing activities; and

Noting that the situation must be addressed in the light of all relevant international fisheries instruments and in accordance with the relevant rights and obligations established in the World Trade Organization (WTO) Agreement;

Have agreed as follows:

Identification of IUU activities

1. At each Annual Meeting, the Commission shall identify those vessels which have engaged in fishing activities for species covered by the SEAFO Convention in a manner which has diminished the effectiveness of SEAFO measures in force, and shall establish a list of such vessels (the IUU vessel list), in accordance with the procedures and criteria set out in this Conservation Measure.
2. This identification shall be documented, *inter alia*, on reports from a Contracting Party relating to SEAFO Conservation Measures in force, trade information obtained on the basis of relevant trade statistics such as Food and Agriculture Organization of the United Nations (FAO) data, Statistical documents and other national or international verifiable statistics, as well as any other information obtained from port States and/or gathered from the fishing grounds which is suitably documented. Information from Contracting Parties should be provided in the format approved by the Commission.

3. For the purposes of this Conservation Measure, vessels fishing for species covered by the SEAFO Convention are presumed to have carried out IUU fishing activities in the Convention Area when a Contracting Party presents evidence that such vessels, *inter alia*:
 - a. Harvest species covered by the SEAFO Convention in the Convention Area and are not on the SEAFO Record of authorized vessels, or
 - b. Harvest species covered by the SEAFO Convention, when its flag State is without or has exceeded its quotas, catch limit or effort allocation established by SEAFO Conservation Measures, or
 - c. Do not record or report their catches made in the Convention Area, or make false reports, or
 - d. Take or land undersized fish in contravention of SEAFO Conservation Measures, or
 - e. Fish during closures in contravention of SEAFO Conservation Measures, or
 - f. Use prohibited fishing gear in contravention of SEAFO Conservation Measures, or
 - g. Transship with, participate in joint fishing operations with, support or re-supply vessels included in the IUU Vessel List, or
 - h. Are without nationality and harvest species covered by the SEAFO Convention in the Convention Area, or
 - i. Engage in fishing activities contrary to any other SEAFO Conservation Measures, or
 - j. Are under the control of the owner of any vessel on the SEAFO IUU Vessel List.

Information on Alleged IUU fishing activities

4. Contracting Parties shall every year, and at least 120 days before the Annual Meeting of the Commission, transmit to the Executive Secretary a list of vessels presumed to be carrying out IUU activities in the Convention Area during the current and previous year, accompanied by the supporting evidence, as provided in paragraph 2, concerning the presumption of this IUU activity.

Draft IUU Vessel List

5. On the basis of the information received pursuant to paragraph 4 and any other information at his disposal, the Executive Secretary shall draw up a draft SEAFO IUU Vessel List and shall transmit it, together with all the supporting evidence provided, to all Contracting Parties, as well as to non-parties with vessels on the List, at least 90 days before the Annual Meeting of the Commission.
6. Contracting Parties and non-parties shall transmit, at least 30 days before the Annual Meeting of the Commission, their comments to the Executive Secretary, as appropriate, including verifiable evidence and other supporting information, showing that the vessels neither have fished in contravention of SEAFO Conservation Measures nor had the possibility of fishing for species covered by the SEAFO Convention.
7. The Executive Secretary shall request each flag State with vessels on the draft IUU Vessel List to notify the owner of the vessels of their inclusion in that List, and of the consequences of their inclusion being confirmed in the IUU Vessel List.
8. Upon receipt of the draft IUU Vessel List, Contracting Parties shall closely monitor the vessels included in that List in order to determine their activities and possible changes of name, flag or registered owner.

Provisional IUU Vessel List

9. On the basis of the information received pursuant to paragraph 6, the Executive Secretary shall draw up a provisional SEAFO IUU Vessel List, and transmit it, two weeks in advance of the Annual Meeting of the Commission, to the Contracting Parties and the non-parties concerned, together with all the evidence provided.
10. Contracting Parties may at any time submit to the Executive Secretary any additional information which might be relevant for the establishment of the IUU Vessel List. The Executive Secretary shall circulate the information, together with all the evidence provided, to the Contracting Parties and to the non-parties concerned, at least two weeks before the Annual Meeting of the Commission.
11. At each Annual Meeting, the Commission shall:
 - (i) Following consideration of the draft IUU Vessel List and information and evidence circulated under paragraphs 5, 9 and 10, adopt a Provisional IUU Vessel List and submit it to the Commission for approval;
 - (ii) Following consideration of the current IUU Vessel List and the information and evidence circulated under paragraph 9, recommend to the Commission which, if any, vessels should be removed from the current IUU Vessel List.
12. A vessel shall be included in the provisional IUU Vessel List only if one or more of the criteria in paragraph 3 have been satisfied.
13. The Commission shall remove a vessel from the provisional SEAFO IUU Vessel List if the vessel's flag State demonstrates that:
 - a. The vessel did not engage in any of the IUU fishing activities described in paragraph 1, or
 - b. Effective action has been taken in response to the IUU fishing activities in question, including, *inter alia*, prosecution, and imposition of sanctions of adequate severity.
14. Following the examination referred to in paragraph 11, the Commission shall approve the provisional IUU Vessel List.
15. The Draft IUU Vessel List, Provisional IUU Vessel List and the IUU Vessel List shall contain the following details for each vessel:
 - (i) name and previous names, if any;
 - (ii) flag and previous flags, if any;
 - (iii) owner and previous owners, including beneficial owners, if any;
 - (iv) operator and previous operators, if any;
 - (v) call sign and previous call signs, if any;
 - (vi) Lloyds/IMO number;
 - (vii) photographs, where available;
 - (viii) date first included on the IUU Vessel List;
 - (ix) summary of activities which justify inclusion of the vessel on the List, together with references to all relevant documents informing of and evidencing those activities.

IUU Vessel List

16. Once the Commission adopts the IUU Vessel List, it shall request non-parties with vessels on the SEAFO IUU Vessel List to:
 - a) notify the owner of the vessels of its inclusion on the IUU Vessel List and the consequences which result from being included in the List, and
 - b) take all the necessary measures to eliminate these IUU fishing activities, including, if necessary, the withdrawal of the registration or the fishing licenses of these vessels, and to inform the Commission of the measures taken in this respect.
17. Contracting Parties shall take all necessary measures under their applicable legislation and pursuant to paragraphs 56 and 66 of the IPOA-IUU, to:
 - a. ensure that fishing vessels, support vessels, mother ships or cargo vessels flying their flag do not participate in any transshipment or joint fishing operations with, support or re-supply vessels on the IUU Vessel List;
 - b. ensure that vessels on the IUU Vessel List that enter ports voluntarily are not authorized to land, transship, refuel or re-supply therein but are inspected upon entry;
 - c. prohibit the chartering of a vessel on the IUU Vessel List;
 - d. refuse to grant their flag to vessels on the IUU Vessel List;
 - e. prohibit commercial transactions, imports, landings and/or transshipment of species covered by the SEAFO Convention from vessels on the IUU Vessel List;
 - f. encourage traders, importers, transporters and others involved, to refrain from transactions in, and transshipment of, species covered by the SEAFO Convention caught by vessels on the IUU Vessel List;
 - g. collect, and exchange with other Contracting Parties, any appropriate information with the aim of searching for, controlling and preventing false import/export certificates for species covered by the SEAFO Convention from vessels on the IUU Vessel List.
18. The Executive Secretary shall take any measure necessary to ensure publicity of the IUU Vessel List, in a manner consistent with any applicable confidentiality requirements, including placing it on the SEAFO website. Furthermore, the Executive Secretary shall transmit the IUU Vessel List to the FAO and to other regional fisheries management organizations for the purposes of enhancing co-operation between the SEAFO and these organizations aimed at preventing, deterring and eliminating IUU fishing.
19. Without prejudice to the rights of Contracting Parties and coastal states to take proper action, consistent with international law, the Contracting Parties shall not take any unilateral trade measures or other sanctions against vessels on the draft or provisional IUU Vessel Lists, pursuant to paragraphs 5 or 9, or that have been removed from the IUU Vessel List, pursuant to paragraph 13, on the grounds that such vessels are involved in IUU fishing activities.

Deletion from the IUU Vessel List

20. A Contracting Party or a non-party with a vessel on the IUU Vessel List may request the removal of the vessel from the List during the intersessional period by providing information demonstrating that:
- a) It has adopted measures that will ensure that the vessel complies with all SEAFO measures;
 - b) it will be able to assume effectively its responsibilities as regards the monitoring and control of the vessel's fishing activities in the Convention Area;
 - c) it has taken effective action in response to the IUU fishing activities that resulted in the vessel's inclusion in the IUU Vessel List, including prosecution and imposition of sanctions of adequate severity.
 - d) the vessel has changed ownership and that the new owner can establish that the previous owner no longer has any legal, financial or real interests in the vessel or exercises control over it, and that the new owner has not participated in IUU fishing activities.